

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

General Permit No. 197800080
Name of Permittee: General Public
Effective Date: July 24, 2000
Expiration Date: December 31, 2004

**DEPARTMENT OF THE ARMY
GENERAL (REGIONAL) PERMIT**

A general permit to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby modified and renewed by authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO MAINTAIN, REPAIR, CONSTRUCT AND BACKFILL BULKHEADS AND RIPRAP MATERIAL STRUCTURES ALONG ERODING SHORELINES IN NAVIGABLE WATERS AND WATERS OF THE UNITED STATES IN THE STATE OF NORTH CAROLINA.

1. Special Conditions.

a. Bulkhead structures authorized by this general permit may be constructed of treated wood, concrete slab, steel or aluminum sheet, broken concrete, brick or rock, with or without backfill material, conforming to the standards contained herein. Other construction activities are not authorized by this general permit.

b. The general permit is applicable only for work along shorelines exhibiting erosion.

c. This general permit is applicable only along shorelines which are void of wetland vegetation or where construction is accomplished landward of such vegetation. This general permit does not authorize the discharge of dredged or fill material in marshgrass or wooded swamp.

d. Bulkhead and riprap structure alignments authorized by this general permit may not exceed a linear distance of 500 feet along any shoreline.

e. Bulkhead and riprap structure alignments authorized by this general permit will not extend farther waterward than an average distance of two (2) feet from the mean high water (MHW) elevation contour in tidal areas or from the normal water level (NWL) elevation contour in nontidal areas.

f. Bulkhead and riprap structure alignments authorized by this general permit will not extend farther waterward than a maximum distance of five (5) feet from the mean high water (MHW) elevation contour in tidal areas or from the normal water level (NWL) elevation contour in nontidal areas.

g. All backfill materials will be obtained from a highground source and confined landward of the permitted bulkhead.

h. Tires, car bodies, scrap metal, paper products, tree limbs and stumps, asphalt and other debris will not be used as backfill material for bulkhead or riprap structures.

i. The fill material will be clean and free of any pollutants except in trace quantities. Metal products, organic materials, or unsightly debris will not be used.

j. Fill material will only be placed landward of bulkheads or riprap structures that are fully installed and that are impervious through structural tightness or the use of a suitable filter cloth.

k. No excavation is permitted by this general permit except for that required for installation of the bulkhead wall, deadmen and cables.

l. No attempt will be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized structure.

m. The permittee will maintain the authorized work in good condition and in conformance with the terms and conditions of this permit. The permittee is not relieved of this requirement if he abandons the permitted structure without having it transferred to a third party.

n. It is possible that an authorized structure may be damaged by wavewash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the permitted structure and the safety of moored boats. The permittee will not hold the United States liable for any such damage.

o. If the permitted work is on lands subject to an easement in favor of the United States for the operation, maintenance, improvement, and enlargement of the Atlantic Intracoastal Waterway (AIWW), the permittee will remove such structures and improvements at his own expense in the event that, in the judgment of the U.S. Army Corps of Engineers acting on behalf of the United States, the lands are needed at any time for any purpose within the scope of the easement. Permanent buildings will not be constructed within the easement.

p. Individuals seeking to verify the authority for construction pursuant to this general permit should provide the following information to:

District Engineer
Wilmington District
Regulatory Division
Post Office Box 1890
Wilmington, North Carolina 28402-1890

(1) Name, address and telephone number.
(2) Location of work, including waterbody, nearest community and county.
(3) Characteristics of the structure, i.e., width, distance from shoreline and type of material.

q. This general permit is not applicable to any work on Atlantic Ocean beaches.

r. All work will comply with Water Quality Certification Number 3257, issued by the North Carolina Division of Water Quality on November 22, 1999.

2. General Conditions.

a. All activities authorized by this general permit that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged or fill material in waters of the United States, prior to the commencement of any work, the applicant will satisfy the North Carolina Division of Environmental Management (NCDDEM) regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

b. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this general permit.

c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this general permit, will, within sixty (60) days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.

d. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.

e. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the waterbody is fifty (50) NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Environmental Management (NCDEM), twenty-five (25) NTU's or less in all saltwater classes and in all lakes and reservoirs, and ten (10) NTU's or less in trout waters, are not considered significant.

f. The permittee will permit the Wilmington District Engineer or his representative to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

g. This general permit **does not** convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a Coastal Area Management Act (CAMA) Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

h. Authorization provided by this general permit may be either modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this general permit shall be five (5) years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.

i. This general permit **does not** authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

j. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

k. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed

activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by State and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(4) Endangered or threatened species or habitat of such species as determined by the Secretaries of Interior or Commerce and concerned in accordance with the Endangered Species Act (16 U.S.C. 1531).

l. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program which prohibits any development, including fill within a floodway that results in any increase in base flood elevations.

m. At his discretion, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

n. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States.

No claim shall be made against the United States on account of any such removal or alteration.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

James W. DeLony
Colonel, U.S. Army
District Engineer